

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
DOCKET NO. 1:15-cr-00068-MOC

UNITED STATES OF AMERICA,

v.

JAMIE LYNN SWARTZ,

Defendant.

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ORDER

THIS MATTER is before the court on defendant's pro se letter (#105). The defendant is presently incarcerated on the Judgment entered by this court on March 25, 2016, sentencing her to 70 months imprisonment. Defendant did not appeal that Judgment, which is now final.

The instant letter requests a sentence reduction based on Amendment 794 of the U.S. Sentencing Guidelines. This court has previously denied the defendant's two prior letters, deemed to be Motions to Correct or Reduce a Sentence under Rule 35. See (ECF #102 & #104).

The court quotes its earlier Order:

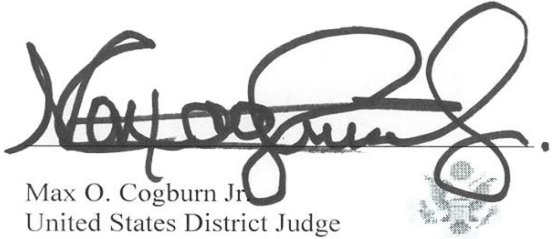
Defendant's request for a sentence reduction is not timely as the Judgment is now final and the court lacks authority to alter such sentence at this point under Rule 35(a) or Rule 36 of the Federal Rules of Criminal Procedure. The court notes that defendant received a below guidelines sentence based on a joint motion for a downward variance (based on her criminal history overstating the seriousness of prior criminal conduct) and that no additional levels were imposed for her role in the offense.

Moreover, Amendment 794 was in effect at the time of the prior sentencing and taken into account in defendant's case. It was not an intervening post-conviction change in the Sentencing Guidelines. It was issued in November 2015 by the U.S. Sentencing Commission, several months before the March 2016 Judgment.

ORDER

IT IS, THEREFORE, ORDERED that defendant's letter (#105), deemed to be a Motion for Modification or Reduction of Sentence, is **DENIED**.

Signed: October 13, 2016



Max O. Cogburn Jr.
United States District Judge